**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION NO. 8693 OF 1997**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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**SARDARSINH SHIVABHAI PARMAR - Petitioner(s)**
**Versus**
**SUB-DIVISIONAL MAGISTRATE & ORS. - Respondent(s)**

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**Appearance :**
Shri N.S. DESAI for Petitioner(s).
Shri Dipen Desai, Assistant Government Pleader for Respondent(s): 1 - 3.

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**CORAM : HONOURABLE MR.JUSTICE R.S.GARG**

**Date : 26/04/2007**

**ORAL JUDGMENT**

The petitioner, Sardarsinh Shivabhai Parmar, holder of Arms License No.B.S.853, being aggrieved by an order dated 30th October,

1995 passed by the learned Sub-Divisional Magistrate, Anand, revoking the license and an order dated 30th June, 1997 passed by the learned District Magistrate, Kheda in Appeal No.POL:Arms:Fi.42/97, dismissing the appeal filed by the petitioner, is before this Court submitting, *inter alia*, that the order passed by the learned Sub-Divisional Magistrate and confirmed by the District Magistrate are bad. They did not take into consideration that on the date of revocation of the license, the petitioner was not convicted for any offence, but, in fact, was facing the trial.

2. Shri N. S. Desai, learned Counsel for the petitioner, submits that during pendency of this Writ Application, the petitioner has already been acquitted by the competent Court, therefore, the cause on which the license was suspended has vanished and is no more available to the Government and its Authorities. Therefore, both these orders deserve to be quashed.

3. Shri Dipen Desai, learned Assistant Government Pleader for the State, submits that the said orders may be quashed with a direction to the learned Sub-Divisional Magistrate to reconsider the entire matter in light of the acquittal of the petitioner

4. The very foundation for cancelling/revoking the license was prosecution of the present petitioner for the offence punishable under Section 302 of the Indian Penal Code, 1860. If the petitioner has already been acquitted of the charges, then, the very foundation has become nonest. The changed circumstances and the subsequent events certainly are required to be taken into consideration by the authority, which had passed the first order.

5. I quash and set aside the orders dated 30th October, 1995

and 30th June, 1997 and direct the learned Sub-Divisional Magistrate, Anand to reconsider the matter in view of the submissions made by the present petitioner.

6. The parties shall appear before the learned Sub-Divisional Magistrate on 15th May, 2007 along with a copy of this order. After receiving the copy of this order, the Sub-Divisional Magistrate shall give a date to the parties to submit their case; after hearing the parties and also after taking into consideration the effect of the order of acquittal, the Sub-Divisional Magistrate shall pass a speaking order in accordance with law.

7. The petition to the extent indicated above is allowed. Rule is made absolute. No costs.

***[R.S.Garg, J.]***

*kamlesh**